

AMENDED IN SENATE JUNE 30, 2011

AMENDED IN SENATE JUNE 23, 2011

AMENDED IN ASSEMBLY MAY 10, 2011

AMENDED IN ASSEMBLY APRIL 26, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 982

Introduced by Assembly Member Skinner

February 18, 2011

An act to repeal and add Division 7.7 (commencing with Section 8700) of the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 982, as amended, Skinner. Energy: land exchange for renewable energy-related projects.

The School Land Bank Act vests the State Lands Commission, as a trustee, with the exclusive jurisdiction and authority to administer the School Land Bank Fund and the interest in land acquired pursuant to that act. The act authorizes the commission, acting as a trustee, to acquire interest in real property for the purposes of facilitating the management of school lands to generate income.

This bill would, contingent on the cooperation of the United States Secretary of the Interior, require the commission to enter into a memorandum of agreement by April 1, 2012, with the United States Secretary of the Interior to facilitate land exchanges consolidating school land parcels into contiguous holdings that are suitable for renewable energy-related projects. The bill would require the commission, by January 1 of each year, to report to the Legislature on the status of the

memorandum of agreement and school land consolidation efforts for renewable energy-related projects.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Division 7.7 (commencing with Section 8700)
2 of the Public Resources Code is repealed.

3 SEC. 2. Division 7.7 (commencing with Section 8700) is added
4 to the Public Resources Code, to read:

5
6 DIVISION 7.7. SCHOOL LANDS

7
8 CHAPTER 1. SCHOOL LAND BANK ACT

9
10 8700. This division shall be known and may be cited as the
11 School Land Bank Act.

12 8701. The Legislature finds and declares as follows:

13 (a) Past policies of the state have resulted in significant depletion
14 of the inventory of lands granted by the federal government to
15 provide fiscal support for the public school system.

16 (b) It is essential that all remaining school lands and attendant
17 interests be managed and enhanced to provide an economic base
18 for support of the public school system.

19 (c) The commission shall plan and implement all transactions,
20 including exchanges, sales, and acquisitions which would facilitate
21 the management of school land interests for revenue generating
22 purposes.

23 (d) The state, through the commission, shall take all action
24 necessary to fully develop school lands, indemnity interests, and
25 attendant mineral interests into a permanent and productive
26 resource base.

27 (e) It is in the best interest of the state that school lands be
28 managed as a revenue source and it is the intent of the Legislature
29 that fair market value be a primary criterion in determining if
30 proposed uses or dispositions of land should be approved.

31 (f) The consolidation of school land parcels into contiguous
32 holdings is essential to sound and effective management and the

1 power to acquire lands by exchange or purchase is elemental to
2 the consolidation process.

3 8702. Unless the context otherwise requires, the definitions in
4 this section govern the construction of this division.

5 (a) "Commission" means the State Lands Commission.

6 (b) "Fund" means the School Land Bank Fund.

7 (c) "School land" means land or interests in land granted to the
8 state by an Act of Congress March 3, 1853 (Ch. 145, 10 Stat. 244),
9 for the specific purpose of providing support for the public schools.

10 (d) "Trustee" means the State Lands Commission acting in its
11 role as trustee for the School Land Bank Fund.

12 8703. Acquisitions may be made by negotiated agreement with,
13 or purchase from, the owners of the outstanding interests. Nothing
14 in this division confers any authority to exercise the power of
15 eminent domain for the purposes of this division, although that
16 power is statutorily vested in the commission.

17 8704. The trustee shall make all reasonable attempts to acquire
18 the mineral and other subsurface rights in any acquisition pursuant
19 to this division. If the trustee is unable to acquire the mineral and
20 other subsurface rights, the trustee may purchase real property
21 upon the trustee expressly finding that the benefits to be derived
22 from the acquisition are substantial and that acquisition of the
23 property without the subsurface rights is in the best interests of
24 the state for the purposes set forth in this division.

25 8705. The trustee has the exclusive jurisdiction and authority
26 to administer the fund and the interest in real property acquired
27 pursuant to this division, including the selection, acquisition, and
28 conveyance of real property by the trustee as provided in this
29 division.

30 8706. The state, in its sovereign capacity, shall accept any
31 conveyance, and the land shall thereafter be held by the state as
32 land of the legal character of school lands subject to the school
33 land trust under the jurisdiction of the commission pursuant to
34 Division 6 (commencing with Section 6001).

35 8707. The commission shall accept the conveyances on the
36 part of the state and shall authorize their acknowledgment and
37 recordation.

38 8708. Until expended for acquisitions in accordance with this
39 division, moneys in the fund shall be deposited in the Pooled
40 Money Investment Fund and the interest deposited in the fund.

1 8709. In addition to the purchase price to be paid, the costs
2 and expenses attributable to the acquisition may be payable from
3 the fund, provided that those costs shall not exceed 5 percent of
4 the expended funds.

5 8709.5. Expenses attributable to management and remediation
6 efforts on state school lands are payable from the fund.

7 8710. An action under this ~~division~~ *chapter* is not subject to
8 the California Environmental Quality Act (Division 13
9 (commencing with Section 21000)), the Subdivision Map Act
10 (Division 2 (commencing with Section 66410) of Title 7 of the
11 Government Code), or the Property Acquisition Law (Part 11
12 (commencing with Section 15850) of Division 3 of Title 2 of the
13 Government Code).

14 8711. There is in the State Treasury the School Land Bank
15 Fund, which is hereby created. Notwithstanding Section 13340 of
16 the Government Code, all moneys in the fund are appropriated to
17 the commission for expenditure, without regard to fiscal years, for
18 the purposes of this division. When performing the powers and
19 duties set forth in this division, the commission shall be known as
20 the School Land Bank Trustee.

21 8712. The trustee may acquire real property or any interest in
22 real property with the objective of facilitating management of
23 school lands for the purpose of generating revenue.

24 8713. The trustee shall act only at an open, scheduled public
25 meeting, subject to all provisions of Division 6 (commencing with
26 Section 6001) relating to meetings of the commission. The trustee
27 may combine its meeting with the meetings of the commission.

28 8715. The provisions of this division are not intended as
29 exclusive, and shall not restrict the commission in otherwise
30 meeting any other responsibilities and jurisdiction the commission
31 presently has by law.

32 8716. The trustee may accept gifts of real property or money
33 for the purposes of this division.

34
35 CHAPTER 2. LAND EXCHANGES FOR RENEWABLE
36 ENERGY-RELATED PROJECTS
37

38 8720. The Legislature finds and declares all of the following:

1 (a) The high cost of energy is taking a financial toll on
2 California's ~~citizens~~ *residents* and economy, as well as making
3 the state more dependent on foreign oil.

4 (b) California is home to abundant renewable energy resources,
5 such as solar, wind, geothermal, and biomass.

6 (c) The State Lands Commission manages on behalf of the State
7 Teachers' Retirement Fund (STRS) hundreds of thousands of acres
8 of school lands, a great deal of which have significant potential
9 for siting large-scale ~~commercial~~ renewable energy projects.

10 (d) The State Lands Commission has a duty pursuant to the
11 School Land Bank Act (Chapter 1 (commencing with Section
12 8700)) to take all action necessary to fully develop school lands
13 into a permanent and productive resource base for the benefit of
14 STRS.

15 (e) A significant amount of school lands are not producing
16 revenue *from large-scale renewable energy projects* because they
17 are isolated, landlocked parcels, the majority of which are remote
18 desert lands. The consolidation of school land parcels into
19 contiguous holdings would facilitate the sound and effective
20 management of these lands *for large-scale renewable energy*
21 *projects*.

22 (f) On October 16, 2008, the State Lands Commission adopted
23 a resolution supporting the environmentally responsible
24 development of school lands for renewable energy-related projects.

25 (g) If school lands are leased for large-scale ~~commercial~~
26 renewable energy projects, the state will benefit in the form of
27 reduced carbon emissions, a cleaner and healthier environment,
28 affordable energy, stronger national security, new jobs, and more
29 funding for STRS.

30 (h) It is the policy of the state to promote the advancement,
31 development, assessment, and installation of large-scale
32 ~~commercial~~ renewable energy projects on school lands. Any
33 consolidation and development of school lands for renewable
34 energy should be done with assurances that the state's unique and
35 sensitive environment will be protected.

36 8721. *For the purposes of this chapter, "California desert"*
37 *means the California Desert Conservation Area as described in*
38 *Section 1781 of Title 43 of the United States Code.*

1 ~~8721.~~

2 8722. (a) The commission shall enter into a memorandum of
3 agreement by April 1, 2012, with the United States Secretary of
4 the Interior to facilitate land exchanges that consolidate school
5 land parcels into contiguous holdings that are suitable for
6 *large-scale* renewable energy-related projects. The memorandum
7 of agreement shall be tailored, to the extent feasible, to prioritize
8 land exchanges that are best suited for large-scale ~~commercial~~
9 renewable energy project development, including for the purposes
10 of mitigation of the impacts of that development.

11 (b) After the memorandum of agreement is entered into, the
12 commission shall make best efforts to consolidate all school land
13 parcels *in the California desert* into contiguous holdings for
14 *large-scale* renewable energy-related projects.

15 (c) The commission shall report to the Legislature by January
16 1 of each year on the status of the memorandum of agreement and
17 school land consolidation efforts *in the California desert*.

18 (d) The requirements of this section are contingent on the
19 cooperation of the United States Secretary of the Interior.

20 ~~8722.~~

21 8723. (a) Within 240 days of the execution of a memorandum
22 of agreement pursuant to Section ~~8721~~ 8722, the commission shall
23 prepare and submit to the United States Secretary of the Interior
24 a proposal for land exchanges that consolidate all school land
25 parcels *in the California desert* into contiguous holdings that are
26 suitable for *large-scale* renewable energy-related projects. In
27 developing the proposal, the commission shall give priority to land
28 exchanges that will facilitate the development of large-scale
29 ~~commercial~~ renewable energy projects.

30 (b) The commission's proposal shall be based on an
31 acre-for-acre exchange with the United States.

32 (c) Notwithstanding subdivision (b), the commission may
33 withhold a school land parcel from an exchange proposal or request
34 additional consideration from the United States Secretary of the
35 Interior if the commission reasonably believes, based on existing
36 and reliable information, that an acre-for-acre exchange would not
37 provide the state with compensation that is equal to or greater than
38 the fair market value of the school land parcel. For the purposes
39 of this subdivision, the commission shall consider the potential

1 renewable energy value of a parcel the commission would receive
2 in the exchange.

3 ~~(d) In preparing the land exchange proposal, the commission~~
4 ~~shall do both of the following:~~

5 ~~(1) Consult with the State Energy Resources Conservation and~~
6 ~~Development Commission to identify areas that are best suited for~~
7 ~~renewable energy projects because of access to transmission lines;~~
8 ~~renewable energy resources, and any other relevant factors.~~

9 ~~(2) Consult with the Department of Fish and Game to identify~~
10 ~~areas that are either of the following:~~

11 ~~(d) In preparing the land exchange proposal, the commission~~
12 ~~shall consult with the Department of Fish and Game to identify~~
13 ~~areas in the California desert that would be compatible with the~~
14 ~~goals of, and proposed or adopted provisions of, the Desert~~
15 ~~Renewable Energy Conservation Plan and are either of the~~
16 ~~following:~~

17 ~~(A) Best suited~~

18 ~~(1) Suitable for renewable energy projects because the identified~~
19 ~~areas do not support direct habitat or habitat corridor values for~~
20 ~~sensitive species species listed as threatened, endangered, or a~~
21 ~~species of special concern pursuant to the California Endangered~~
22 ~~Species Act (Chapter 5 (commencing with Section 1500) of Division~~
23 ~~1 of the Fish and Game Code) or the federal Endangered Species~~
24 ~~Act of 1973 (16 U.S.C. Sec. 1531 et seq.), and that, in the judgment~~
25 ~~of the State Energy Resources Conservation and Development~~
26 ~~Commission and the Department of Fish and Game, are sufficient~~
27 ~~to warrant consideration of their designation as a mitigation or~~
28 ~~conservation area for these species.~~

29 ~~(B)~~

30 ~~(2) Areas that would serve as potential mitigation areas to offset~~
31 ~~mitigate the impacts that renewable energy-related projects may~~
32 ~~have on the environment.~~

33 (e) The commission's costs and expenses attributable to the
34 land exchange process may be payable from the fund.

35 (f) The commission may consider counter land exchange
36 proposals from the United States Secretary of the Interior and make
37 additional proposals to the extent that the additional proposals
38 achieve the goals set forth in this chapter.

- 1 (g) Final approval of a land exchange proposed pursuant to this
- 2 chapter shall be made by the commission at a properly noticed
- 3 commission meeting.

O